

IN THE SUPREME COURT OF FLORIDA

WILLIAM WILLIAMS,

Petitioner,

v.

CASE NO. SC15-1417

STATE OF FLORIDA,

Respondent.

_____ /

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF RESPONDENT

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STATEMENT OF FACTS

The facts of this case were set forth in the opinion below as follows:

On October 4, 2013, at approximately 10:17 p.m., Williams was arrested for driving under the influence. Less than twenty minutes later, the arresting officer asked Williams to submit to a breath test to determine his blood-alcohol content; he refused. The officer did not have a warrant. Williams was then issued five uniform traffic citations, including a citation for Refusal to Submit in violation of section 316.1939, Florida Statutes. . . .

Williams filed a motion to dismiss the Refusal to Submit charge, arguing that the statute is unconstitutional as applied. For purposes of the motion, the parties stipulated that: (1) the police had probable cause to ask Williams to submit to a breath test; (2) the initial stop of Williams' vehicle was lawful; (3) Williams refused to take the breath test; (4) Williams' driving record reflected a prior refusal to submit to a breath test; and (5) the motion to dismiss was dispositive as to the Refusal to Submit charge.

The county court denied the motion to dismiss and certified the following question as one of great public importance: If the implied[-]consent statute provides consent to search as an exception to the Fourth Amendment warrant requirement, then can that consent be withdrawn by refusal to submit to an otherwise lawful test of breath, blood or urine and can the second such refusal be punishable as a criminal offense?

The court then accepted Williams' no contest plea, which specifically reserved the right to appeal the denial of the motion to dismiss. Williams was sentenced to two days' imprisonment, with two days' credit for time served. This appeal followed.

Williams v. State, 167 So. 3d 483, 485-86 (Fla. 5th DCA 2015).

SUMMARY OF ARGUMENT

This Court should decline to exercise jurisdiction here, where the lower court's decision is well-reasoned and does not conflict with any Florida precedent.

ARGUMENT

THIS COURT SHOULD DECLINE TO
EXERCISE JURISDICTION.

This Court “may” exercise jurisdiction under article V, section (3) (b) (3) of the Florida Constitution where a decision of a district court “expressly declares valid a state statute.” The lower court did so here, finding that “no constitutional bar prohibits the State from criminally punishing Williams for refusing the [breath] test” as delineated in section 316.1939, Florida Statutes. Williams, 167 So. 3d at 494.

While this Court *may* exercise jurisdiction here, it should decline to do so. The five district courts of appeal uphold statutes against constitutional challenges on a regular basis. If this Court decided to routinely review such cases, it would soon be overwhelmed.

Here, the Fifth District Court of Appeal has crafted a lengthy opinion discussing the potential effect of recent precedent from the United States Supreme Court on the long-standing Florida statute governing the failure to comply with a legally requested breath test. This is, indeed, a case of first impression in Florida. However, this decision also addresses a narrow question of law under a very specific set of facts, and it effectively maintains the status quo - allowing those who refuse to take a simple breath test when arrested for DUI to suffer the delineated statutory consequences for doing so, as they always have.

That no other district court has addressed this issue should weigh *against* this Court exercising jurisdiction here. Under the Florida Constitution, the district courts were intended to be final appellate courts unless this Court's review was necessary to maintain uniformity or address an unfair result . See generally Gerald Kogan & Robert Craig Waters, THE OPERATION AND JURISDICTION OF THE FLORIDA SUPREME COURT, 18 Nova L. Rev. 1151, 1237 (1994) ("Even if discretion exists, the Court is free to deny the petition [for review] if the issues seem unimportant or the result essentially fair or correct).

Given the absence of any conflict with other cases or upheaval in the law, the state of the law would be better served if this Court allows the other district courts to consider the legal and policy questions raised by the Supreme Court precedent and addresses this issue when, and if, the other districts choose to disagree. Allowing other district courts to weigh in on this matter before this Court steps in better serves the interests of justice and better respects the role of the district courts under the Florida Constitution.

Finally, Petitioner's argument that the lower court's decision conflicts with decisions of the *United States* Supreme Court, and decisions of *other states*, does not form a basis for jurisdiction. Under article V, section (3)(b)(3), this Court may exercise jurisdiction when a district court decision "expressly and directly conflicts with a decision of *another district court of appeal or of*

the supreme court." (emphasis added). No such conflict is demonstrated here.

CONCLUSION

Based on the arguments and authorities presented herein, Respondent respectfully requests this honorable Court decline to accept jurisdiction of this case.

Respectfully submitted,

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DESIGNATION OF EMAIL ADDRESS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Jurisdictional Brief has been furnished to Eric Latinsky and Aaron Delgado, counsel for Appellant, 227 Seabreeze Boulevard, Daytona Beach, Florida 32118, by e-service to adelgado@communitylawfirm.com and elatinsky@communitylawfirm.com, this 22nd day of September, 2015.

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this brief was typed using 12 point Courier New, a font that is not proportionately spaced.

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